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**TITLE 327 WATER POLLUTION CONTROL BOARD**

**FIRST NOTICE OF COMMENT PERIOD**

LSA Document #06-280(WPCB)

**DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING GROUND WATER QUALITY STANDARDS FOR ARSENIC**

**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rule [327 IAC 2-11-6](#) concerning the numeric criteria for arsenic in the ground water quality standards. IDEM seeks comment on the affected citations listed and any other provisions of Title 327 that may be affected by this rulemaking.

**CITATIONS AFFECTED:** [327 IAC 2-11-6](#).

**AUTHORITY:** [IC 13-18-3-1](#); [IC 13-18-4-1](#); [IC 13-18-4-3](#); [IC 13-18-4-4](#); [IC 13-18-4-5](#); [IC 13-18-17-5](#).

**SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**

**Basic Purpose and Background**

[IC 13-18-17-5](#)(a)(3) requires the Water Pollution Control Board to adopt rules concerning ground water quality standards to establish health protection goals for untreated water in water supply wells. The federal maximum contaminant level (MCL) for arsenic in drinking water was reduced from 0.05 mg/L to 0.010 mg/L in January 2006. Since the federal MCL has been reduced, IDEM is reducing the numeric criteria for arsenic as a health protective goal for untreated ground water used as drinking water, which is also the maximum permissible level of a contaminant in drinking water class ground water.

**Alternatives To Be Considered Within the Rulemaking**

Since the federal MCL for arsenic in drinking water has been reduced from 0.05 mg/L to 0.010 mg/L, in order to meet the requirement specified in statute, the numeric criteria for arsenic as a health protective goal in the ground water quality standards should also be reduced from 0.05 mg/L to 0.010 mg/L. If the statutory requirement in [IC 13-18-17-5](#)(a) to establish health protection goals for untreated water in water supply wells is to be met, no alternatives to doing the rulemaking exist.

**Applicable Federal Law**

40 CFR 141.23 sets the federal MCL for arsenic at 0.010 mg/L.

**Potential Fiscal Impact**

It is anticipated that there will be little to no economic effect. The main impact will be to sites undergoing remediation. All sites currently testing their monitoring wells for arsenic will have to test to the 0.010 mg/L standard. Some sites may have to change their laboratories if their current laboratory cannot test to the new limit. Facilities currently in remediation may need to conduct additional testing to show background levels of arsenic if existing tests are not to the new limit. There may be a charge to those facilities to explain deviations to the Office of Land Quality program area overseeing their remediation.

**Small Business Assistance Information**

IDEM established a compliance and technical assistance program (CTAP) under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a Small Business Assistance Program Ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at [www.in.gov/idem/compliance/ctap](http://www.in.gov/idem/compliance/ctap).

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Sandra El-Yusuf  
IDEM Compliance and Technical Assistance Program  
OPPTA - MC60-04  
100 N. Senate Avenue  
W-041  
Indianapolis, IN 46204-2251  
(317) 232-8578  
[selyusuf@idem.in.gov](mailto:selyusuf@idem.in.gov)  
The Small Business Assistance Program Ombudsman is:  
Eric Levenhagen  
IDEM Small Business Assistance Program Ombudsman  
External Affairs - MC50-01

100 N. Senate Avenue  
IGCN 1301  
Indianapolis, IN 46204-2251  
(317) 234-3386  
elevenha@idem.in.gov

#### **Public Participation and Workgroup Information**

At this time, no workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Rebecca Schmitt, Rules Development Section, Office of Water Quality, at (317) 234-0986 or (800) 451-6027 (in Indiana).

#### **STATUTORY AND REGULATORY REQUIREMENTS**

[IC 13-14-8-4](#) requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

#### **REQUEST FOR PUBLIC COMMENTS**

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Mailed comments should be addressed to:

#06-96 (WPCB) [Ground Water Quality Standards Revisions]  
Rebecca Schmitt  
Rules Development Section  
Office of Water Quality  
Indiana Department of Environmental Management  
100 North Senate Avenue  
Indianapolis, Indiana 46204.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the twelfth floor reception desk, Office of Water Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may also be submitted by facsimile at the IDEM fax number: (317) 232-8636, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Development Section at (317) 234-0986.

#### **COMMENT PERIOD DEADLINE**

Comments must be postmarked, faxed, or hand delivered by September 8, 2006.

Additional information regarding this action may be obtained from Rebecca Schmitt, Rules Development Section, Office of Water Quality, (317) 234-0986 or (800) 451-6027 (in Indiana).

Bruno Pigott  
Assistant Commissioner  
Office of Water Quality

*Posted: 08/09/2006 by Legislative Services Agency*  
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